UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

> No. 3:75-CR-26-F No. 5:06-CV-24-F

UNITED STATES OF AMERICA)	
)	
V .)	GOVERNMENT'S MOTION FOR
)	EXTENSION OF TIME TO FILE A
JEFFREY R. MacDONALD,)	RESPONSE TO PENDING MOTIONS
Movant)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby moves for an extension of time in which to file a response to the Movant's Motion for a Hearing [DE-175] and Motion for New Trial Pursuant to the Innocence Protection Act [DE-176], and respectfully shows unto the Court the following:

1. On September 21, 2011, the Court issued an Order directing the Government to respond to Movant's Motion for Hearing and Motion for New Trial on or before December 1, 2011, and for the Movant to reply to that response by December 12, 2011.

2. The Government has been preparing the response and it is complex. The pleadings filed by the Movant on the eve of the status conference raise multiple claims for relief, based both on the pending § 2255 claim based on the 2006 DNA results and on the Innocence Protection Act of 2004, each of which must be addressed separately. Technical and scientific issues are involved as well

1

Case 3:75-cr-00026-F Document 202 Filed 11/09/11 Page 1 of 3

legal analysis of the applicable statutes.

3. On November 8, 2011, the Court issued an Order continuing the evidentiary hearing on Movant's "Britt claim" to the week beginning April 30, 2012. Movant's counsel situation has not yet been resolved.

 Accordingly, the Government respectfully requests an extension of time to complete and file its response to December 13, 2012.

5. The undersigned has contacted Mr. Hill Allen, attorney for the Movant. He stated that the Movant consents to the Government's extension request on the understanding that the Government consents to the extension of the Movant's reply deadline to January 6, 2012. The Government does so consent.

6. Therefore, the Government respectfully requests that the Court extend the deadline for the filing of the Government's response to December 13, 2011, and the deadline for the Movant's reply to January 6, 2012.

Respectfully submitted, this 9th day of November, 2011.

THOMAS G. WALKER United States Attorney

BY: <u>/s/ John Stuart Bruce</u> JOHN STUART BRUCE First Assistant U.S. Attorney 310 New Bern Avenue, Suite 800 Raleigh, North Carolina 27601 Telephone: (919) 856-4530 Fax: (919) 856-4487 E-mail: <u>john.bruce@usdoj.gov</u>; North Carolina Bar No. 8200

2

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing document upon the movant in this action either electronically or by placing a copy of same in the United States mail, postage prepaid, and addressed to counsel for defendant as follows:

> Christine C. Mumma N.C. Center on Actual Innocence P.O. Box 52446 Durham, NC 27717-2446 Phone: (919) 489-3268

F. Hill Allen, Esq. Tharrington Smith, L.L.P. P.O. Box 1151 Raleigh, North Carolina 27602-1151 Phone: (919) 821-4711

This, the 9th day of November, 2011.

BY: <u>/s/ John Stuart Bruce</u> JOHN STUART BRUCE First Assistant U.S. Attorney 310 New Bern Avenue, Suite 800 Raleigh, North Carolina 27601 Telephone: (919) 856-4530 Fax: (919) 856-4487 E-mail: john.bruce@usdoj.gov; North Carolina Bar No. 8200